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SUBJECT: DTI OFFICIAL CLARIFIES BEE CODES OF GOOD PRACTICE

(U) This cable is sensitive but unclassified. Not for Internet distribution.

1. (SBU) SUMMARY. Department of Trade and Industry (DTI) Director of Black Economic Empowerment (BEE) Jeffrey Ndumo met with representatives from U.S. firms at the American Chamber of Commerce in South Africa (AmCham). Ndumo said that DTI would release nine Codes of Good Practice in two phases over the next several months. He said that a new DTI scorecard containing targets for each Charter component would be included in the Codes. Ndumo announced the formation of a DTI "BEE Secretariat," which will engage with all sector BEE councils. He also said that DTI would announce the National BEE Advisory Council this year. Ndumo criticized state-owned companies (SOEs) who attendees claimed are requiring firms to comply with multiple industry targets. He said that this is a "misunderstanding and misapplication of BEE" and that he would address this issue with SOEs and government agencies in an upcoming roadshow. Ndumo thanked AmCham and its members for their engagement with DTI on BEE policy. He said that no other business chamber had presented DTI with the thoughtful and critical analysis of BEE the way that AmCham had. END SUMMARY.

2. (U) On November 10, 2004, Department of Trade and Industry (DTI) Director of Black Economic Empowerment (BEE) Jeffrey Ndumo met with representatives from U.S. firms at the American Chamber of Commerce in South Africa (AmCham). Ndumo spoke about DTI's Codes of Good Practice and responded to questions and concerns that U.S. firms have about BEE.

3. (U) Ndumo explained that DTI would release nine Codes of Good Practice in two phases over the next several months. Phase one includes three Codes, which will be published before the end of this year. Phase two Codes are scheduled for release in February 2005. Each Code will attempt to explain all the issues pertaining to a particular BEE element. The Codes will consist of one or more "statements." A "statement" includes a related set of principles guiding the implementation of one BEE issue. Ndumo pointed out that these Codes are not to be confused with industry Charters that, once approved and gazetted by DTI, will also be referred to as Codes of Good Practice. A list of DTI's Codes and statements to-date follows:

PHASE ONE:

Code 000: Framework  
    Statement 000: Conceptual Framework  
    Statement 020: Charter Guidelines  
    Statement 030: BEE Council  
    Statement 070: Broad-based BEE Implementation  
    Statement 090: Glossary  
Code 100: Ownership  
    Statement 100: Ownership  
    Statement 140: Government Ownership  
Code 200: Management  
    Statement 200: Management

PHASE TWO:

Code 300: Employment Equity  
Code 400: Skills Development  
Code 500: Affirmative Action  
Code 600: Enterprise Development  
Code 700: Corporate Social Investment (CSI)  
Code 800: BEE Practice Notes

4. (U) As part of Code 000, Ndumo said that DTI would release a new scorecard containing targets for each component. The new scorecard will also allocate points for the inclusion of women. Preferential procurement will be based on BEE contribution. Bonus points will be given for over-performance. The scorecard will include more options for indicators and sub-minimum scores will be required to achieve BEE-compliant status. When asked about potential differences between existing Charter targets and DTI's new scorecard targets, Ndumo responded that DTI had looked at market trends emerging in the industry scorecards. Ndumo said that industry would find DTI's targets "reasonable."

15. (U) Ndumo said that DTI is forming a "BEE Secretariat," which will be a DTI organ. The Secretariat will absorb existing DTI personnel dedicated to BEE and will engage with all sector councils. The Director of the Secretariat will sit on the National BEE Advisory Council. Government decisions pertaining to BEE, however, will be made by the Advisory Council, which Ndumo said would be announced this year.

16. (U) Several people in attendance commented to Ndumo that state-owned enterprises (SOEs) across various sectors are requiring firms to comply with the SOE's respective industry targets. Ndumo said that this is a "misunderstanding and misapplication of BEE" and that he would address this issue with SOEs and government agencies in an upcoming roadshow.

17. (SBU) Ndumo thanked AmCham and its members for their engagement with DTI on BEE policy. He said that no other business chamber had presented DTI with the thoughtful and critical analysis of BEE the way that AmCham had. Ndumo welcomed future opportunities to engage with AmCham and American firms in South Africa.

FRAZER